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Reconsideration of this application, as amended, is respectfully requested.

Initially, the Applicants would like to thank the Examiner for maintaining the indication that claims 9, 11, 14 and 16 are allowable.

However, in the Final Official Action, the Examiner also maintains the rejection of claims 1-8, 10, 12, 13, 15, and 19-22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2003/0117491 to Avni et al., (hereinafter "Avni"). Furthermore, the Examiner maintains the rejection of claims 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Avni in view of European Patent No. 0912047 to Matsumoto et al., (hereinafter "Matsumoto").

In response, Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102(e) and 103(a) for at least the reasons set forth below.

In the previous response, claims 1, 7, 12 and 17-19 were amended to recite that the switching device switches illuminating conditions of the illuminating light irradiated by the illuminating device, presets at least two different illuminating conditions and a switching order thereof, and automatically switches the illuminating conditions from a first illuminating condition corresponding to a first image acquisition cycle to a second illuminating condition corresponding to a subsequent image acquisition cycle.

However, in the present Official Action, the Examiner argues that such features are also disclosed in Anvi, specifically, at Figure 8 and paragraphs [0074-0087]. Applicants respectfully disagree for at least the following reasons.

Anvi only discloses that the maximum illumination time ( $\Delta T4$ ) is preset. The maximum illumination time is the maximum time the light sources (63A, 63B, 63C and 63D)

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remain on for any illumination cycle (see paragraph [[0074])). Anvi does not disclose any other preset illumination times or conditions. Although the illumination time ( $\Delta T6$ ) in the first illumination cycle ( $\Delta T1$ ) is different from the illumination time ( $\Delta T7$ ) in the second illumination cycle ( $\Delta T2$ ), such illumination times ( $\Delta T6$ ,  $\Delta T7$ ) are not preset. The illumination times ( $\Delta T6$ ,  $\Delta T7$ ) are generated based on a detection of the light sensing unit (67). When the light detected by the light sensing unit (67) reaches a threshold value, the light sources (63A, 63B, 63C and 63D) are turned off (thus defining the illumination time) (see paragraphs [0078 and 0079] and [0083-0086]). Therefore, the illumination times for each illumination cycle are not preset, as recited in the independent claims of the present application, but vary as a function of light detected by the light sensing unit (up to a maximum of  $\Delta T4$ ).

With regard to the rejection of claims 1-8, 10, 12, 13, 15, and 19-22 under 35 U.S.C. § 102(e), a capsule endoscope apparatus having the features discussed above and as recited in independent claims 1, 7, 12 and 19, is nowhere disclosed in Avni. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"<sup>1</sup> independent claims 1, 7, 12 and 19 are not anticipated by Avni. Accordingly, independent claims 1, 7, 12, and 19 patentably distinguishable over Avni and are allowable. Claims 2-8, 10, 13, 15, and 20-22 being dependent upon claims 1, 7, 12, and 19, are thus at least allowable therewith.

With regard to the rejection of claims 17 and 18 under 35 U.S.C. § 103(a), Independent claims 17 and 18 are not rendered obvious by the cited references because neither the Avni patent nor the Matsumoto patent, whether taken alone or in combination,

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<sup>1</sup> Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

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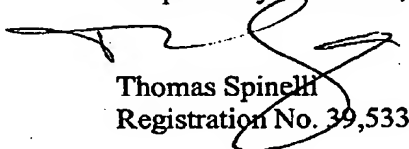
teach or suggest a capsule endoscope apparatus having the features described above.

Accordingly, claims 17 and 18 patentably distinguish over the prior art and are allowable.

Furthermore, new claims 23-28 have been added to further define the patentable invention. New claims 23-28 are fully supported in the original disclosure, such as from page 22, line 10 to page 23, line 5 of the specification. Thus, no new matter has been entered into the disclosure by way of the addition of new claims 23-28. Applicants respectfully submit that new claims 23-28 are at least allowable as depending upon an allowable base claim.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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